

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	CC Docket No. 95-116
Telephone Number Portability)	
)	
)	

I. Introduction

The Nebraska Public Service Commission (NPSC) hereby submits comments in the above referenced docket. The NPSC appreciates the opportunity to submit comments in this matter responsive to the Federal Communication Commission's (FCC's) Notice and request for comments issued May 22, 2003. The Petition filed by the Cellular Telecommunications & Internet Association seeking Declaratory Ruling raised a number of issues for the FCC to consider.¹ The NPSC will focus its comments on the issues it believes to be most important to Nebraska consumers. Specifically, the NPSC believes the issues raised are not new, but rather a last minute attempt to delay wireless number portability. The NPSC believes that the CTIA is using this Petition for Declaratory Ruling as an untimely attempt to convince the Commission to overturn its ruling with respect to wireless local number portability. The CTIA Petition does not raise any critical technical issues that should result in a further delay. If the Commission finds the issues raised by the CTIA are genuine policy issues that need to be addressed, the current deadline of November 24, 2003, for wireless carriers to implement local number portability should not be extended.

II. Discussion

**A. The CTIA Petition raises issues which are not new and not critical
to the November 24, 2003 Deadline**

The CTIA argues that a September 1, 2003 resolution of the issues in the Petition is critical
“*if* the Commission intends to adhere to its November 24, 2003 deadline...” (Emphasis Added)

The CTIA admits in its Petition that industry working groups have resolved most of the number portability issues and that arguments related to certain “*obstacles, none of which are new*” but have been used by wireline carriers *in an effort to delay number portability*, are now being mirrored by the wireless carriers. (Emphasis Added) The CTIA is correct in stating that many of these issues are not new, rather the issues could have been raised long ago by the CTIA had they been critical technical barriers to the implementation of wireless number portability. Certainly, as the Commission recognized in its order authorizing the extension of the LNP implementation deadline to November 24, 2003, the importance of public safety coordination is of great concern to everyone. It has been particularly crucial since the tragic events of September 11, 2001. However, the Commission has given the industry ample time and guidance to coordinate these efforts. The Commission previously found that the last one-year delay would allow an adequate amount of time to resolve outstanding public safety coordination issues.² Contrary to the argument raised in the CTIA Petition, there should not be any risk to public safety if the carriers are properly acting within the guidelines established by the Commission, NANC and follow recognized industry practices. Moreover, the ongoing coordination of porting efforts should not serve as an impediment to implementing wireless number portability on a timely basis. Rather, such efforts to resolve any remaining porting issues can run concurrently through industry cooperation with implementation of wireless number portability.

With respect to the CTIA’s Petition concerning the definition of the top 100 MSAs and the Commission’s bona fide request rule, the NPSC believes again that no Commission action is necessary prior to the November 24, 2003 deadline. To date, the Commission has not officially reversed the bona fide request requirement nor is the Commission’s definition of the top 100 MSAs unclear. Moreover, the Commission can, at a later date, modify its rules with respect to

¹ In the Matter of Telephone Number Portability, Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, CC Docket No. 95-116 (filed May 13, 2003)(“CTIA Petition”).

those issues if appropriate based on the feedback it receives through the NPRM process. These issues are policy issues that are not critical to the November 24, 2003 deadline.

Although another delay is not specifically requested, the CTIA's Petition in reality is only a delay tactic. Should the Commission address the issues listed in the Petition and enact new regulations with respect to porting intervals and other ILEC/CMRS obligations as suggested by the CTIA, it is unlikely that the Commission could reasonably do so within 90 day time frame as requested and such action would create additional reasons for the CTIA to argue to delay the current deadline. Contrary to the CTIA's assertions, the issues raised in the CTIA Petition do not require immediate Commission action and are not critical to the November 24, 2003 deadline.

B. The Current Deadline for Wireless Local Number Portability Should Not Be Delayed

A number of state commissions, consumer groups and the National Association of Regulatory Utility Commissioners (NARUC)³ have previously voiced their opinion to the Commission on this issue in response to the public notice and request for comments to the CTIA's petition for declaratory ruling that wireline carriers must provide portability to wireless carriers within their service areas filed on January 23, 2003.⁴ The CTIA Petition states that the LNP rule will be frustrated if the porting interval issue is not resolved. The NPSC believes that consumers would be more frustrated should the Commission were to push back the wireless LNP deadline. Many wireless residential and business customers are relying on the current implementation date and are already paying for wireless number portability implementation on their bills. The Commission has already reasoned that any further delay would "impair the

² See Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligations, WT Docket No. 01-184, *Memorandum Opinion and Order*, 17 FCC Rcd 14972, para. 23 (2002).

³ See e.g., Reply Comments of the California Public Utilities Commission and of the People of the State of California at 2 (filed March 13, 2003)(Reply Comments of the California Public Utilities Commission); and Resolution Concerning Number Portability for Wireless Carriers, 2003 NARUC Winter Meeting, Washington, D.C. (Adopted: February 26, 2003).

⁴ Telephone Number Portability, Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association CC Docket No.. 95-116, *Public Notice*, 18 FCC Rcd 832 (2003).

development of competition and unnecessarily harm consumers.”⁵ While some state commissions agreed that certain policy issues raised by the CTIA should be resolved, they also argued that the rate center issue was not a technical issue that should delay the November 24, 2003 deadline.⁶ The NPSC agrees. Again, several issues raised by the CTIA in its May 13, 2003 Petition are also simply *policy* issues which the Commission can resolve if the Commission deems it reasonable when the timing is appropriate. None of the issues raised by the CTIA should cause a delay in the FCC’s November 24, 2003 deadline.

C. There are Other Benefits Attributable to Keeping the Current Portability Deadline Intact

In April of this year, the General Accounting Office released a report that recommends that the FCC include service quality standards in its review of wireless carriers.⁷ The NPSC agrees that exacting service quality standards for wireless carriers should be implemented to address service quality and billing concerns of consumers if not by the FCC then at the option of state commissions. The NPSC believes this is particularly important when customers are unable to easily change carriers in the event that they are dissatisfied with their service. A recent Merrill Lynch report states that financial losses wireless carriers will incur with number portability implementation will not be due to implementation itself but rather because of customer churn because many wireless carriers have been collecting fees for the implementation of number portability from customers.⁸ The NPSC believes that the implementation of wireless number portability will give consumers greater freedom to change carriers while at the same time incenting carriers to improve service and billing practices in order to retain their customers, thus creating an added benefit to consumers from the implementation of wireless number portability.

⁵ Telephone Number Portability, Petition for Declaratory Ruling of the Cellular Telecommunications and Internet Association, CC Docket No. 95-116, *Memorandum Opinion and Order*, para. 28 (July 26, 2002).

⁶ See Reply Comments of the California Public Utilities Commission at 2.

⁷ See GAO 03-501, *FCC Should Include Call Quality in its Annual Report on Competition in Mobile Phone Services* (Released May 5, 2003).

⁸ See Merrill Lynch, *Wireless Number Portability Update*, (released February 28, 2003).

III. Conclusion

For the foregoing reasons, the NPSC respectfully requests that the Commission reject CTIA's Petition for Declaratory Ruling and preserve the current schedule for wireless LNP deployment. The schedule for wireless portability should remain in place and the CTIA and all other CMRS carriers should be required to implement LNP by November 24, 2003.

Respectfully Submitted,

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